

Congress of the United States
Washington, DC 20515

September 13, 2012

Mr. Alfred Pollard, General Counsel
Attn: Comments/RIN 2590-AA53
Federal Housing Finance Agency, Eighth Floor
400 Seventh Street, SW.
Washington, DC 20024

Dear Mr. Pollard:

We write to express our objections to the Notice of Proposed Rule (NPR) that Property Assessed Clean Energy (PACE) programs materially increase financial risks to Fannie Mae and Freddie Mac (the Enterprises), and to the Proposed Rule, which continues to block PACE programs. We urge you to issue a final rule based on facts, to consider the environmental impacts of PACE programs, and the substantial public interests at stake. We propose that FHFA adopt the standards set forth in our legislation, H.R. 2599, which would allow PACE programs to proceed with little to no risk to the Enterprises.

FHFA received more than 30,000 comment letters in response to the Advance Notice of Proposed Rulemaking (ANPR) supporting PACE. They were submitted by state and local governments, federal and state elected officials, banks, real estate developers, energy companies, organizations representing millions of Americans, and Members of Congress, such as ourselves. Those comments cited numerous studies, articles, legal decisions, and other sources providing evidence that PACE increases the value of homes, reduces homeowners' energy costs, creates jobs and economic activity, and helps local governments meet greenhouse gas reduction and clean energy goals. It appears that FHFA has ignored or severely discounted the claims and data of comments in favor of PACE programs and overvalued the claims of those in opposition to PACE programs. FHFA must not ignore the substantial weight of the evidence already in the record establishing that PACE does not pose material risks to the Enterprises.

Furthermore, FHFA's Proposed Rule is even more harmful to local government PACE programs than the proposed action cited in the ANPR. In addition to prohibiting the Enterprises from buying mortgages on properties with PACE liens, it allows the Enterprises to make mortgages on such properties immediately due, and would prohibit the Enterprises from consenting to PACE obligations under any conditions. FHFA's Proposed Rule upsets the well-established authority of local governments to finance improvements with a valid public purpose through assessments, and imperils an extremely effective means of creating jobs, ensuring energy security and protecting public health and the environment.

We believe that FHFA should adopt our legislation H.R. 2599, the *PACE Assessment Protection Act of 2011*, which is a modified version of the proposed Alternative 3 in the Proposed Rule. Our legislation provides thorough underwriting standards and other protections to reduce the risk of default, ensures that PACE-financed improvements add to the value of homes, and sufficiently protects the Enterprises from the risks perceived by FHFA. Our legislation provides a solution that is supported by the evidence and practice, can be implemented by local governments right away, and will allow PACE programs to move forward. Also, H.R. 2599 is a bipartisan piece of legislation that went through many drafts and where guidance and comments were sought and incorporated from a number of parties, including FHFA. FHFA should adopt our legislation as its final rule.

We welcome the opportunity to work with FHFA to further refine our legislation and this Proposed Rule if necessary. FHFA should not close the door to residential PACE when a workable solution is either available now or can be resolved in a collaborative stakeholder process in a relatively short period of time.

In sum, FHFA should the parameters and underwriting standards outlined in our legislation, H.R. 2599. This solution enables FHFA to enhance the value of the Enterprises' portfolio while respecting the rights of local governments to protect the public health and safety and allowing this extremely effective engine of job creation to move forward.

Sincerely,


NAN HAYWORTH
Member of Congress


MIKE THOMPSON
Member of Congress


DAN LUNGREN
Member of Congress